

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
GENNETTE McDANIEL)	BANKRUPTCY NO. 03-61532 JPK
)	Chapter 13
Debtor.)	

ORDER REGARDING PETITION TO SELL REAL ESTATE

On September 23, 2005, the debtor, by counsel, filed a Petition to Sell Real Estate. The Court cannot act on the petition as it has presently been presented.

First, there are no specifics as to the nature of the proposed sale. 11 U.S.C. § 363 does not contemplate the approval of a sale as a blank check: rather, it is only a specifically designated sale, with specifically designated terms, upon which the Court may act pursuant to that statute.

If the debtor is seeking authority to list the subject property through a real estate broker or other sales professional, then the contract between the debtor and the proposed broker must be submitted to the Court for approval as a application to employ a professional under the provisions of 11 U.S.C. § 327/ Fed. R. Bank. P. 2014. The application must include a copy of the contract to be entered into between the debtor and the proposed professional: I.C. 32-21-1-10 requires contracts with realtors for procuring a purchaser for real property to be in writing.

If the debtor does not propose to use a professional, but rather has herself obtained a buyer without the intervention of a professional, then the written contract for sale between the debtor and the prospective purchaser must be submitted to the Court for approval in advance of the consummation of the sale.

Finally, the Court notes that the original Petition to Sell Real Estate requests permission to sell the "above-specified cash collateral;" real property is not "cash collateral" as defined by 11 U.S.C. § 363(a).

The Court finds that the foregoing Petition presents nothing to the Court upon which it can act, and that therefore the Petition must be denied without prejudice to the submission of an application or applications to the Court which specify the transactions for which the Court's approval is sought.

IT IS ORDERED that the Petition to Sell Real Estate filed on September 23, 2005 is DENIED.

Dated at Hammond, Indiana on December 14, 2005.

/s/ J. Philip Klingeberger
J. Philip Klingeberger
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, U.S. Trustee